

# Exhibit “A”

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

RANCH PROPERTIES, LLC, AN )  
OKLAHOMA LIMITED LIABILITY )  
COMPANY, )

Plaintiff, )

vs. )

CASE NO. 19-cv-425-JWB

VALERO TERMINALING AND )  
DISTRIBUTION COMPANY; VALERO )  
PARTNERS OPERATING CO., LLC, )  
AND VALERO PARTNERS )  
WYNNEWOOD, LLC, )

Defendants. )

\* \* \* \* \*

VIDEO DEPOSITION OF BERT SMITH  
TAKEN ON BEHALF OF THE PLAINTIFF  
IN OKLAHOMA CITY, OKLAHOMA

ON OCTOBER 7, 2022

COMMENCING AT 9:30 A.M.

\* \* \* \* \*

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1 Q. Are you a toxicologist?

2 A. No, I'm not.

3 Q. Are you a risk assessor?

4 A. I'm not a risk assessor.

5 Q. Were you involved with the development of the  
6 screening levels that are used by any agency in Oklahoma?

7 A. The development of those, no.

8 Q. Okay. And I think you testified earlier you're  
9 not qualified to give a legal opinion as to the  
10 applicability of those regulatory levels on contamination  
11 at the Lazy S Ranch, correct?

12 A. I don't think that was my testimony, no.

13 Q. Okay. Well, do you believe that you can give  
14 an opinion as to the applicability of a regulatory  
15 cleanup matter on Lazy S Ranch?

16 A. I can make the comparison to regulatory levels.  
17 That's what I've done most of my career, you know, done  
18 that thousands of times.

19 Q. Right.

20 A. You know --

21 Q. Is this a regulatory case, sir?

22 A. Pardon me?

23 Q. Is this a regulatory case?

24 A. At this point it is not a -- it hasn't been  
25 under the purview of any regulatory agency, but these are

1 typically -- you know, you make your comparison to  
2 regulatory standards that -- typically to apply to issues  
3 like this.

4 Q. Because you're typically representing  
5 contaminators or polluters that are being -- have  
6 enforcement actions by regulatory agencies, correct?

7 MR. CANTWELL: Objection.

8 Q. (By Mr. Page) I mean, your -- your career has  
9 been primarily representing oil companies or other  
10 companies that cause pollution and you're helping these  
11 companies avoid cleanup at contaminated sites, correct?

12 MR. CANTWELL: Objection. Argumentative.  
13 Misstates testimony.

14 THE WITNESS: No, that's not correct.

15 Q. (By Mr. Page) It's not correct.

16 So earlier when I asked if you primarily  
17 represented companies, did I misunderstand you when you  
18 said you primarily do represent companies throughout your  
19 career?

20 A. I primarily represent industry.

21 Q. Industry.

22 A. Yeah.

23 Q. And they are primarily, in the paradigm we're  
24 talking about here, the people that cause contamination  
25 of air, soil, and water, correct?

1 MR. CANTWELL: Objection.

2 THE WITNESS: There are instances where  
3 they've contaminated or caused impacts to air, soil, and  
4 water.

5 Q. (By Mr. Page) And in those instances where  
6 you've said you -- thousand of times you've applied  
7 regulatory standards, those were all circumstances where  
8 the regulatory agency was focusing on a cleanup of  
9 contamination caused by your clients, correct?

10 A. Well, those regulations were in -- put in place  
11 as a guideline on when cleanup was needed.

12 Q. By regulatory agencies, correct?

13 A. By regulatory agencies.

14 Q. Right. Is this a regulatory action that we're  
15 involved with here?

16 A. The DEQ or the OCC at this point in time have  
17 not been involved, so --

18 Q. No?

19 A. -- no.

20 Q. Is it your understanding that the  
21 Arbuckle-Simpson aquifer is a sole-source aquifer?

22 A. Yes.

23 Q. What's a sole-source aquifer in your  
24 understanding?

25 A. Well, there's a definition and I'd have to

1 reference it, but it's an EPA designation of a aquifer  
2 that's of very good quality and of -- just, a lot  
3 generally, there's no other source of water in that area.

4 Q. Okay. So it's a -- it's sole source because  
5 it's a sole drinking water source for that -- the people  
6 that live in that area, correct?

7 A. Yeah. And there's a -- there's a definition  
8 that I would default to that's the EPA actually has.

9 Q. But is that generally the gist of it?

10 A. That's generally what I mentioned, yes.

11 Q. Is the Arbuckle-Simpson aquifer a sole-source  
12 aquifer in your understanding?

13 A. In what?

14 Q. I'm sorry.

15 Is the Arbuckle-Simpson aquifer a sole-source  
16 aquifer?

17 A. Yeah, I just answered that, yes.

18 Q. Yes. Okay.

19 And what is your understanding of Oklahoma  
20 policy to prevent contamination of sole-source aquifers  
21 in Oklahoma?

22 A. That there are regulatory programs that they  
23 have to meet. Yeah, I mean, those -- those parameters  
24 are -- still fall under the purview of regulatory  
25 agencies.